

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

E.K.D., et al., individually and on behalf of all others similarly situated,)	
)	
Plaintiffs,)	Cause No: 3:11-cv-00461-GPM-SCW
)	
vs.)	
)	CLASS ACTION
FACEBOOK, INC.,)	
)	
Defendant.)	

PLAINTIFFS' PRELIMINARY MOTION FOR CLASS CERTIFICATION

In accordance with the Seventh Circuit guidance in *Damasco v. Clearwire Corp.*, No. 10-3934, 2011 WL 5829773, at *4 (7th Cir. Nov. 18, 2011), Plaintiffs hereby preliminarily move to certify this matter as a class action and ask the Court to hold its ruling on this Motion in abeyance until the parties have had an opportunity to fully develop the facts necessary to support this motion.

1. Pursuant to Rules 23(a) and 23(b)(1), (2), and (3) of the Federal Rules of Civil Procedure, Plaintiffs move to certify the following class:

All facebook users, who during a time that facebook records identified them to be under the age of 18, had their name used in connection with a facebook advertisement.

2. Alternatively, in the event that the Court concludes that variations in state law require sub-classes, Plaintiffs move to certify the following class(es):

All facebook users, who during a time that facebook records identified them to be under the age of 18 and a resident of California, Ohio, Nevada, Illinois, or Indiana and had their name used in connection with a facebook advertisement.

3. Specifically excluded from each of the proposed classes are: any Judge conducting proceedings in this action and their parents, spouses and children as well as any other

member of their family residing in the judge's household; counsel of record in this action; the legal representatives, heirs, successors and assigns of any excluded person.

4. In the alternative, the Court should certify an issue class under Rule 23(b)(2), 23(b)(1)(B) or 23(c)(4) as this matter challenges a uniform practice and the prosecution of separate actions by individual class members would create a risk of inconsistent or varying adjudications, as well as a risk that individual adjudications would, as a practical matter, be dispositive of the interests of the other members not parties to that adjudication.

5. In support of this motion, Plaintiffs intend to submit a memorandum of law, to be fully incorporated herein by reference, in accordance with this Court's local rules and the scheduling Order entered in this case.

WHEREFORE, Plaintiffs respectfully request that the Court grant this motion and certify this case as class action as stated above once the parties have had an opportunity to fully develop the facts necessary to support this motion. Plaintiffs also request all other relief to which they are entitled.

Dated: November 29, 2011

Respectfully submitted,

KOREIN TILLERY

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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system that will send notification of such filing to the following:

- Matthew D. Brown
- Jeffrey M. Gutkin
- Michael C. Hermann
- Michael G. Rhodes
- Charles J. Swartwout
- Steven A. Katz
- Mark J. Tamblyn
- Ian J. Barlow

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